

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

P.S., a minor, by Carly and Lee
Schiesser, his parents and natural
guardians,

COURT FILE #

Plaintiffs,

COMPLAINT

v.

Sanford Clinic North, a North Dakota
Corporation,

Defendant.

I. PARTIES

Plaintiff P.S. is two years old, having been born in 2011. Since his birth he has resided with his parents, Carly and Lee Schiesser, in the state of Minnesota.

Sanford Clinic North is a North Dakota corporation which provides health care services through a multi-state chain of medical clinics and hospitals.

II. JURISDICTION

Federal jurisdiction is based on diversity of citizenship pursuant to 28 USC §1332 in that plaintiffs are residents of the state of Minnesota and defendant is a North Dakota corporation with its primary place of business in the state of North Dakota.

III. FACTS

1. P.S. was born in 2011 at St. Francis Hospital in Breckenridge, Minnesota by vaginal delivery performed by Dr. James Halvorson, an employee of defendant.

2. P.S. is the son of Carly Schiesser and Lee Schiesser.

3. Carly Schiesser's prenatal care was provided at a Sanford Clinic in Wahpeton, North Dakota, also by Dr. James Halvorson.
4. P.S.'s birth weight was in excess of 10 pounds.
5. P.S. was Carly Schiesser's fourth child.
6. Carly Schiesser's three prior children had all been large babies, weighing in excess of nine pounds at birth, with the second and third babies each weighing, respectively, more than the previous baby.
7. Carly Schiesser's three prior children were all delivered vaginally.
8. The delivery of Carly Schiesser's second child, S.O., in 1998, was complicated by severe shoulder dystocia resulting in Erb's Palsy and a fractured clavicle.
9. The delivery of Carly Schiesser's third child, O.S., in 2003, was complicated by shoulder dystocia resulting in a fractured clavicle.
10. During the course of providing prenatal care to Carly Schiesser, Dr. Halvorson learned of her history of delivering large babies.
11. During the course of providing prenatal care to Carly Schiesser, Dr. Halvorson also learned of the history of shoulder dystocia complicating at least one of Carly Schiesser's prior deliveries.
12. During the course of providing prenatal care to Carly Schiesser, Dr. Halvorson had an ultrasound done on March 11, 2011 which revealed an estimated weight over the 90th percentile for gestational age.
13. P.S.'s delivery in 2011 was induced and performed vaginally by Dr. Halvorson.
14. P.S.'s birth weight was 10 pounds 14 ounces.
15. P.S.'s delivery was complicated by shoulder dystocia.

16. As a result of P.S.'s shoulder dystocia, he suffered a permanent right-sided brachial plexus injury.

17. P.S.'s brachial plexus injury required reconstructive surgery at the Mayo Clinic on July 26, 2011.

18. Notwithstanding reconstructive surgery, P.S.'s brachial plexus injury has left him with severe permanent impairment of the right arm which will drastically limit the function of that arm throughout his life.

19. The permanent and disabling injury to P.S.'s right arm was a direct cause of medical negligence on the part of Dr. Halvorson in that he failed to comply with the standard of acceptable medical practice in at least the following respects:

- a. Failing to obtain records of Carly Schiesser's previous deliveries;
- b. Failing to estimate P.S.'s birth weight before inducing Carly's labor;
- c. Failing to discuss with Carly Schiesser the risks of vaginal delivery of a large baby, including shoulder dystocia and its potential consequences;
- d. Failing to refer Carly to an obstetrical surgeon for a Cesarean section delivery.

20. As a result of Dr. Halvorson's medical negligence and P.S.'s consequent injury, P.S. has suffered pain, disability, disfigurement and emotional distress; has sustained a lifetime loss of earning capacity; and will in the future incur medical expenses for treatment of his injury.

21. As a result of Dr. Halvorson's medical negligence and P.S.'s consequent injury, plaintiffs Carly Schiesser and Lee Schiesser have incurred and will in

the future incur medical and other expenses, and have suffered a loss of consortium.

IV. CLAIM FOR RELIEF

For their damages as stated above, plaintiffs pray for an award of Five Million Dollars (\$5,000,000.00).

I hereby acknowledge that sanctions may be awarded pursuant to Minn. Stat. § 549.211.

SCHWEBEL GOETZ & SIEBEN, P.A.

Dated: 8/2/12 By _____


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